



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

The Landlord filed an Application for Dispute Resolution on December 18, 2022 seeking an order to end the tenancy on the basis that the Tenant poses an immediate and severe risk to the property, other occupants, or the Landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on January 17, 2023.

The Landlord attended the hearing; the Tenant did not. I provided the Landlord the opportunity to present oral testimony and make submissions during the hearing. The Landlord affirmed an oath after I informed them that their statements are evidence in this legal process.

Preliminary Matter – notification of the hearing

The Landlord presented that they delivered notice of this dispute resolution to the Tenant by registered mail on December 21, 2022. This was the day after they received the document from the Residential Tenancy Branch. In their prepared evidence, the Landlord provided an image of the receipt, and the tracking label with tracking number. The tracking report provided by the Landlord shows delivery of the registered mail to the Tenant’s postal address on December 23, 2022.

From what the Landlord presents here on notifying the Tenant of this hearing, I am satisfied they served the Tenant notice of this hearing in a method prescribed by the *Act*, particularly s. 89(2)(b). This included all the evidence the Landlord prepared when applying for this hearing.

The Landlord also presented they prepared a supplementary piece of evidence in the week prior to this hearing. They served this to the Tenant at a specified spot communicated to them by the Tenant. I find this evidence service – as affirmed by the Landlord under oath – conforms with s. 89(2)(d) in a conspicuous place specified by the Tenant.

Given my finding that the Landlord effected service in the proper manner and in compliance with the *Act*, I proceed with the hearing. I conducted the hearing, in the absence of the Tenant, as allowed by Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?

Background and Evidence

The Landlord confirmed basic details in the tenancy agreement that they presented in their evidence. They signed this agreement jointly with the Tenant when they became the new Landlord in 2021. The rental unit is one of four in the fourplex structure owned by the Landlord.

The Landlord applies for an end of tenancy based on the “immediate and severe risk to the rental property, other occupants or the landlord.” They provided evidence on the incident involving kidnapping and other gang activity. This stems from an armed standoff on November 18, 2022. The Landlord learned of the incident from one of the neighbouring residents at the time of the incident. They visited the rental unit soon thereafter, after speaking with local police.

The incident was well-known to all residents in the local municipality, as shown in the new article provided by the RCMP to the Landlord.

On their subsequent visit, the Landlord noted extensive damage to the exterior and interior of the rental unit. They provided photos showing the same in their evidence.

The Landlord described the incident, and their discovery of it afterward, in some detail in the hearing. Overall, they summed up by saying the security of other building residents was compromised. They are aware of the local situation with other criminal activities.

Analysis

The *Act* s.56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 56(1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end tenancy were given under s. 47 [*landlords' notice: cause*], and
 - (b) granting the landlords an order of possession in respect of the rental unit.

The *Act* s.56(2) sets out two criteria. First, the landlords must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlords to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

- (a) The tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property
 - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property; or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

I have carefully considered the evidence of the Landlord concerning the conduct of the Tenant's guests and other individuals who apparently reside in the unit after the Tenant moved out.

I find the Landlord here presented sufficient evidence to show the Tenant and/or a person permitted on the residential property by the Tenant was the cause of illegal activity, that is criminal actions that prompted an immediate and impactful response from the local police detachment.

I am satisfied that the facts of the situation prove cause. Secondly, I find it unfair for the Landlord to wait for a set-period Notice to End Tenancy to take effect, as per s. 56(2)(b). The Tenant allowed individuals into the rental who caused significant damage, adversely impacted neighbours, thereby jeopardizing their right to quiet enjoyment. There is a very legitimate and serious concern about safety. I find this all warrants an expedited end to the tenancy in that the Tenant continues to maintain occupancy.

I so grant an Order of Possession in line with this rationale. By this Order of Possession, the occupants and/or the Tenant must vacate on the specified date within the Order of Possession, after the Landlord serves it to them.

Conclusion

For the reasons above, I grant an Order of Possession to the Landlord effective on the date provided therein. Should the Tenant and/or other occupants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: January 17, 2023

Residential Tenancy Branch